

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 DARYL E. SAYLES a.k.a. DARRYL E.
4 GHOLSON,

Plaintiff

Case No. 2:18-cv-01007-GMN-VCF

ORDER

5 v.
6

7 STATE OF NEVADA et al.,

8 Defendants

9
10 This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a
11 former state prisoner. Plaintiff has submitted an application to proceed in district court
12 without prepaying fees or costs following his release from prison. (ECF No. 24). Based
13 on the financial information provided, the Court grants Plaintiff leave to proceed without
14 prepayment of fees or costs under 28 U.S.C. § 1915(a)(1).¹

15 On August 5, 2019, the Court entered a screening order. (ECF No. 4). The
16 screening order imposed a 90-day stay and the Court entered a subsequent order
17 assigning the case to mediation by a court-appointed mediator. (ECF Nos. 4, 11). The
18 Office of the Attorney General has filed a status report indicating that settlement was not
19 reached and informing the Court of its intent to proceed with this action. (ECF No. 27).

20 The Court dismisses the motion for entry of clerk's default (ECF No. 17) as
21 premature. This case is in the pre-service stage. The Court also denies the motion for
22 sanctions (ECF No. 18).

23 **IT IS THEREFORE ORDERED** that:

24 1. Plaintiff's application to proceed in district court without prepaying fees or
25 costs (ECF No. 24) is **GRANTED**.

26 2. Plaintiff is permitted to maintain this action to conclusion without the
27 necessity of prepayment of any additional fees or costs or the giving of security therefor.

28 ¹ Plaintiff is not subject to the requirements of 28 U.S.C. § 1915(a)(2), (b) because he is
no longer a "prisoner" within the meaning of the statute. See 28 U.S.C. § 1915(h).

1 This order granting leave to proceed in district court without prepaying fees or costs will
2 not extend to the issuance and/or service of subpoenas at government expense.

3 3. The Clerk of the Court will electronically **SERVE** a copy of this order and a
4 copy of Plaintiff's complaint (ECF No. 5) on the Office of the Attorney General of the State
5 of Nevada, by adding the Attorney General of the State of Nevada to the docket sheet.
6 This does not indicate acceptance of service.

7 4. Service must be perfected within ninety (90) days from the date of this order
8 pursuant to Fed. R. Civ. P. 4(m).

9 5. Subject to the findings of the screening order (ECF No. 4), within **twenty-**
10 **one (21) days** of the date of entry of this order, the Attorney General's Office will file a
11 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
12 accepts service; (b) the names of the defendants for whom it does not accept service,
13 and (c) the names of the defendants for whom it is filing the last-known-address
14 information under seal. As to any of the named defendants for whom the Attorney
15 General's Office cannot accept service, the Office will file, *under seal*, but will not serve
16 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
17 information. If the last known address of the defendant(s) is a post office box, the Attorney
18 General's Office will attempt to obtain and provide the last known physical address(es).

19 6. If service cannot be accepted for any of the named defendant(s), Plaintiff
20 will file a motion identifying the unserved defendant(s), requesting issuance of a
21 summons, and specifying a full name and address for the defendant(s). For the
22 defendant(s) as to which the Attorney General has not provided last-known-address
23 information, Plaintiff will provide the full name and address for the defendant(s).

24 7. If the Attorney General accepts service of process for any named
25 defendant(s), such defendant(s) will file and serve an answer or other response to the
26 complaint (ECF No. 5) within **sixty (60) days** from the date of this order.

8. Henceforth, Plaintiff will serve upon defendant(s) or, if an appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for consideration by the Court. Plaintiff will include with the original document submitted for filing a certificate stating the date that a true and correct copy of the document was mailed or electronically filed to the defendants or counsel for the defendants. If counsel has entered a notice of appearance, Plaintiff will direct service to the individual attorney named in the notice of appearance, at the physical or electronic address stated therein. The Court may disregard any document received by a district judge or magistrate judge which has not been filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk which fails to include a certificate showing proper service.

9. This case is no longer stayed.

10. The motion for entry of clerk's default (ECF No. 17) is denied as premature.

11. The motion for sanctions (ECF No. 18) is denied.

DATED THIS 18th day of November 2019.


UNITED STATES MAGISTRATE JUDGE